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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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DIAMOND G RODEOS., INC, a Utah  
Corporation; STEVE GILBERT, an  
individual; and CYNDI GILBERT, an  
individual,

Plaintiffs,

v.

BRIAN JAMES GIFFORD, an individual; and  
DOES 1-10,

Defendants.

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AND RELATED COUNTERCLAIMS

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**MEMORANDUM DECISION AND  
ORDER DENYING MOTION FOR  
SUPPLEMENTAL EVIDENCE AND  
MOTION TO CEASE AND DESIST**

Case No. 4:22-cv-00089-DN-PK

District Judge David Nuffer  
Magistrate Judge Paul Kohler

Defendant Brian Gifford (“Gifford”) filed the following motions and submissions: (1) Motion for Supplemental Evidence;<sup>1</sup> (2) Cease and Desist Notice;<sup>2</sup> (3) a collection of documents filed August 22, 2024 (“August 22 Documents”);<sup>3</sup> (4) FOIA Request for Bond Information in Case 4:22-cv-00089-DN-PK (“FOIA Request”);<sup>4</sup> (5) Response to Plaintiffs’ Opposition DKT 70 (“Evidence Reply”);<sup>5</sup> (6) Defendant’s Reply to Plaintiffs’,[sic] Opposition to Motion to Cease and Desist (“Cease and Desist Reply”);<sup>6</sup> and (7) Defendant’s Notice of Deficiency in Plaintiffs’

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<sup>1</sup> [Docket no. 67](#), filed August 9, 2024.

<sup>2</sup> [Docket no. 68](#), filed August 9, 2024.

<sup>3</sup> [Docket no. 72](#), filed August 22, 2024.

<sup>4</sup> [Docket no. 73](#), filed August 28, 2024.

<sup>5</sup> [Docket no. 74](#), filed August 30, 2024.

<sup>6</sup> [Docket no. 75](#), filed August 30, 2024.

Evidence and Allegations of Malicious Prosecution, Abuse of Process, and Fraudulent Claims (“Deficiency Motion”).<sup>7</sup>

In response to Gifford’s filings, Plaintiffs filed Plaintiffs’ Opposition to Defendants’ Motion to “Cease and Desist” [Dkt. 68] (“Cease and Desist Opposition”),<sup>8</sup> Plaintiffs’ Opposition to Defendant’s “Motion for Supplemental Evidence” [Dkt. 67] (“Evidence Opposition”),<sup>9</sup> and Plaintiffs’ Response to Gifford’s Notice [Dkt. 76] (“Deficiency Notice Opposition”).<sup>10</sup>

Neither Gifford’s Motion for Supplemental Evidence, nor the Cease and Desist Notice, nor the Evidence Reply, nor the Cease and Desist Reply, nor the Deficiency Motion substantively address Gifford’s prior discovery response deficiencies, Gifford’s violations of prior court orders, or Gifford’s lack of substantive response to the Report and Recommendation entered by Magistrate Judge Paul Kohler.<sup>11</sup> Gifford has not shown any basis for his purported Motions and moves forward as if the Report and Recommendation were never entered. Additionally, the August 22 Documents and FOIA Request are baseless, incoherent, and irrelevant.

The Report and Recommendation recommended default judgment be entered in favor of Plaintiffs against Gifford.<sup>12</sup> Gifford failed to make any objection and the Report and Recommendation was adopted in its entirety resulting in a Default Judgment in favor of Plaintiffs against Gifford.<sup>13</sup> Gifford’s seven filings listed above only highlight his pattern of

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<sup>7</sup> [Docket no. 76](#), filed September 16, 2024.

<sup>8</sup> [Docket no. 69](#), filed August 18, 2024.

<sup>9</sup> [Docket no. 70](#), filed August 18, 2024.

<sup>10</sup> [Docket no. 77](#), filed September 16, 2024.

<sup>11</sup> Report & Recommendation, [docket no. 62](#), filed May 6, 2024.

<sup>12</sup> Report & Recommendation, [docket no. 62](#), filed May 6, 2024.

<sup>13</sup> Memorandum Decision and Order Adopting Report and Recommendation, [docket no. 78](#), filed October 4, 2024.

filing improper, non-responsive, deficient, baseless, irrelevant filings; his repeated ignoring of court orders; and his failures to follow the rules of procedure. These issues are precisely what previously led to the Report and Recommendation<sup>14</sup> and the Order fully adopting it.<sup>15</sup>

### ORDER

Accordingly, IT IS HEREBY ORDERED that all of Gifford's seven filings, to the extent they can be considered motions, are DENIED including the Motion for Supplemental Evidence<sup>16</sup> and the Cease and Desist Notice.<sup>17</sup> Any other relief requested in Gifford's seven filings is also DENIED.

IT IS FURTHER ORDERED that Plaintiffs are awarded their costs and attorneys' fees incurred in responding to the seven Gifford filings, including related to the Cease and Desist Opposition,<sup>18</sup> the Evidence Opposition,<sup>19</sup> and the Deficiency Notice Opposition.<sup>20</sup> Plaintiffs shall file materials supporting their claims for attorney fees in accordance with DUCivR 54-2.

Signed October 4, 2024.

BY THE COURT



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David Nuffer  
United States District Judge

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<sup>14</sup> See generally Report and Recommendation.

<sup>15</sup> [Docket no. 78](#), filed October 4, 2024.

<sup>16</sup> [Docket no. 67](#), filed August 9, 2024.

<sup>17</sup> [Docket no. 68](#), filed August 9, 2024.

<sup>18</sup> [Docket no. 69](#), filed August 18, 2024.

<sup>19</sup> [Docket no. 70](#), filed August 18, 2024.

<sup>20</sup> [Docket no. 77](#), filed September 16, 2024.